

Atty. Docket No. YOR20010151US1  
(590.057)**REMARKS**

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. Claims 1-4, 6-9, 12-29 and 31-49 were pending in the instant application at the time of the outstanding Office Action. Claims 1, 24, 25, 27, and 46-49 are independent claims; the remaining claims are dependent claims. Independent Claims 1, 24, 25, 27, 28, 33, 34, 39 and 44-49 have been rewritten to more clearly define the present invention. These amendments are not in acquiescence of the Examiner's position on the allowability of the claims, but merely to expedite prosecution. Applicants intend no change in scope of the claims by the changes made by these amendment.

**The U.S.C. 112 Rejections**

Claims 4 and 29 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is asserted one of ordinary skill in the art of auctions would not know what constitutes a "a sufficient change in parameters relating to a user". This rejection is respectfully traversed. These claims relate to triggering periodic execution of choosing an order computation method. The phrase objected to by the Examiner indicates the choice of an order computation method is triggered when parameters relating to a sufficient change in user parameters. This is discussed in the specification as follows, "[t]he order computation and placement cycle is triggered at step 410 ... in response to a sufficiently significant update to the user parameters at step 404

Atty. Docket No. YOR20010151US1  
(590.057)

..." (Page 20, lines 16-18) One of ordinary skill in the art is well-aware of the change needed in user parameters to trigger the order computation and placement cycle. Further, in order to enable an apparatus to trigger the event based on changes in user parameters, one of ordinary skill in the art must necessarily know if a certain change in user parameters is sufficient to effect a trigger, or if a change in user parameters is not sufficient to effect a trigger. Thus, this is appropriate language in a claim. Accordingly, it is respectfully submitted that this rejection should be withdrawn.

Claims 27-29 and 31-45 also stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Office is objecting to the recitation in the claims that the apparatus comprises "arrangements" for performing various functions. The claims in contention have been amended to address this issue. Reconsideration and withdrawal of the rejection is respectfully requested.

#### The U.S.C. 101 Rejections

Claims 27- 29 and 31-45 stand rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically, the Office has asserted that the claims in contention have no connection to the technological arts. The claims in contention have been amended to address this issue. Withdrawal and reconsideration of this rejection is respectfully requested.

Atty. Docket No. YOR20010151US1  
(590.057)**The U.S.C. 103 Rejections**

Claims 1-4, 6-7, 9, 12-17, 21-23, 25-29, 31-32, 34-40, 43-45, 47 and 49 stand rejected under 35 U.S.C. 103(a) over Shoham in view of Montgomery. Claims 18-20, 24, 41-42, 46 and 48 stand rejected under 35 U.S.C. 103(a) over Shoham in view of Montgomery and in further view of Price Formation in Double Auctions hereinafter Price Formation (by Gjerstaed and Dickhaut). Claims 8 and 33 stand rejected under 35 U.S.C. 103(a) over Shoham in view of Montgomery in further view of Harrington et al. The Office admits that neither of these references describe or disclose the present invention, but rather contends that the combination of the teachings of these references would make the present invention obvious to a person of ordinary skill in the art. However, this contention is not supported by the references. Reconsideration and withdrawal of the present rejections are therefore respectfully requested.

The present invention broadly contemplates participating in electronic auctions without requiring human supervision or intervention. (Page 1, lines 3-4) By and large it has been assumed that the participants in electronic auctions are human, and thus auction sites are almost exclusively oriented towards human participants, and do not cater to the needs of software agents that might wish to participate in the auction. (Page 1, line 16 - Page 2, line 1) Therefore, in order to relieve humans from the need for constant vigilance and participation in electronic auctions, and to improve on the gains from trade that can be attained by human traders, a need has been recognized in connection with automating the process of bidding in electronic auctions, and to develop bidding strategies that adapt to market conditions, and to the observed history of orders and trades. A need has also

Atty. Docket No. YOR20010151US1  
(590.057)

been recognized in connection with providing a broadly applicable and modular method for composing an automated bidder in such a way as to permit it to be easily tuned by its human owner. (Page 6, lines 1-8)

As presently best understood, Shoham appears to be directed to designing and deploying an interactive, real-time, universal on-line trading market system serving traders communicating via the Internet. (Col. 4, lines 38-40) Thus, Shoham relates to the creation of an on-line marketplace in which human traders are market participants. The portions of Shoham cited in the Office Action relate to manner in which the auction is conducted, in contrast with the present invention. See Col. 8, lines 50-58; "after five minutes of inactivity close the auction".

As presently best understood, Montgomery appears to be directed to automating many of the processes of the buyer-side of a dynamic pricing or auction pricing transaction executed on the Internet. With respect to automating bidding, Montgomery appears to teach the use of a bid proxy in an ascending English style auction. See Col. 9, lines 13-16 ("computing, using the bid proxy, a next valid price by adding a minimum valid price increment to a current auction price to compute an offer price, if the current auction price is below a maximum price"). There simply is no teaching or suggestion of automatically developing bidding strategies as in the present invention.

The instantly claimed invention specifically requires obtaining information about an ongoing auction, including information about the type of auction and auction rules relating to the auction; obtaining information relating to a user and obtaining information relating to the history of orders, including user specified parameters and order history

Atty. Docket No. YOR20010151US1  
(590.057)

which may be used in an order computation method or in selection of an order computation method; choosing an order computation method from among a number of potential order computation methods while taking into account the auction information, order history, and user-specified parameters; computing an order via-executing the chosen order computation method while taking into account the auction information, order history, and user-specified parameters; and placing the computed order. (Claim 1)

Similar language appears in the other independent claims. It is respectfully submitted that such features are neither taught nor suggested by the applied references.

Any combination of Shoham, Montgomery, Price Formation, and Harrington et al. fails to teach or suggest the instantly claimed invention. As clearly defined by the claims, the instantly claimed invention includes, inter alia, obtaining user specified parameters and a history of the orders which may be used in selection of an order computation method and choosing an order computation method from among a number of potential order computation methods while taking into account the user specified parameters and the order history. None of the applied references teach or suggest using user specified parameters and the order history to choose an order computation method.

Moreover, combining the teachings of the applied references would not result in the instantly claimed invention. If these teachings were combined, at best, a simple proxy bidder would be used in a virtual electronic ascending English style auction. Thus, following the teachings of the applied references would not result in the claimed invention which in user specified parameters and order history are used to chose an order computation method in a wide variety of auction types.

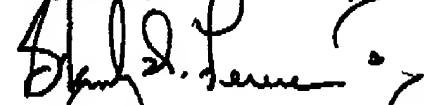
Atty. Docket No. YOR20010151US1  
(590.057)

In view of the foregoing, it is respectfully submitted that Claims 1, 24, 25, 27, and 46-49 fully distinguish over the applied art and are thus allowable. By virtue of dependence from Claims 1, 24, 25, 27, and 46-49, it is thus also submitted that Claims 2-4, 6-9, 12-23, 26, 28-29, 31-45 are also allowable at this juncture.

The "prior art made of record" has been reviewed. Applicants acknowledge that such prior art was not deemed by the Office to be sufficiently relevant to have been applied against the claims of the instant application. To the extent that the Office may apply such prior art against the claims in the future, Applicants will be fully prepared to respond thereto.

In summary, it is respectfully submitted that the instant application, including Claims 1-4, 6-9, 12-29, and 31-49, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. In the unlikely event the Office does not agree the application is in condition for allowance, Applicants respectfully request an interview with the Examiner prior to the next Office Action in this case.

Respectfully submitted,



Stanley D. Ference III  
Registration No. 33,879

Customer No. 35195  
FERENCE & ASSOCIATES  
409 Broad Street  
Pittsburgh, Pennsylvania 15143  
(412) 741-8400  
(412) 741-9292 - Facsimile

Attorneys for Applicants